

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY COOK #499719,

No. 09-10892

Plaintiff,

District Judge Denise Page Hood

v.

Magistrate Judge R. Steven Whalen

PATRICIA CARUSO, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTIONS TO COMPEL DISCOVERY
[DOCKET #14] AND TO APPOINT COUNSEL [DOCKET #25]**

Plaintiff, a *pro se* prison inmate in this civil rights action brought under 42 U.S.C. §1983, has filed a motion to compel discovery and a separate motion for appointment of counsel.

Plaintiff's *Motion for Discovery of Information Regarding Civil Defendants to Perfect Service of Process* appears to have been mooted by my April 21, 2010 order directing marshal's service. *Docket #15*. The motion will therefore be denied on the basis of mootness.

Plaintiff's motion for counsel will likewise be denied. Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993), the Sixth Circuit noted that "[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances." (Internal quotations and citations omitted).

It is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been

denied. On June 17, 2010 Defendants filed a motion for summary judgment based on Plaintiff's failure to exhaust his administrative remedies. *Docket #29*. Until that motion is decided, the request for counsel is premature.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's April 15, 2010 motion for discovery [Docket #14] and May 28, 2010 motion for appointment of counsel [Docket #25] are **DENIED WITHOUT PREJUDICE**.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Date: December 20, 2010

CERTIFICATE OF SERVICE

I hereby certify on December 20, 2010 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on December 20, 2010: **Gregory Cook**.

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge R. Steven Whalen
(313) 234-5217